

Case 21230YP

Page 28

REMARKS

The Official Action of March 4, 2009 and the art cited therein have been carefully considered. The amendments and remarks herein are considered to be responsive thereto.

I. Status of the Claims

After entry of these amendments, claims 1, 2, 7-9, 11-20, 22, 24-31, 33-40, and 43-45 are pending. Claim 1 is amended. Claims 33, 38, and 43 have been allowed. No new claims have been added.

II. Allowance of Claims 33, 38, and 43

Applicants gratefully acknowledge that Claims 33, 38, and 43 are allowed.

III. Rejections under 35 U.S.C. § 112

Applicants would like to thank the Examiner for the withdrawal of the 35 USC 112 rejections.

IV. Rejections Under 35 U.S.C. § 102(a)

Applicants would like to thank the Examiner for the withdrawal of the 35 USC 102(a) rejection.

V. Rejections Under 35 U.S.C. § 103

Applicants acknowledge the replacement of the 35 USC 103 rejections with the new grounds of rejection under 35 USC 102(b).

VI. Rejections Under 35 U.S.C. § 102(b)

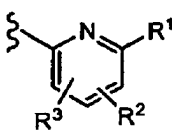
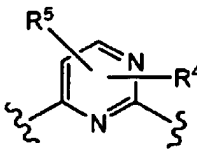
Claims 1, 14, 19, 29, and 44 stand rejected under 35 U.S.C. § 102(b) as anticipated by Katoh, et al., U.S. Patent No. 4,783,466 ('466) and 4,873,248 ('248). Examiner states that '466 and '248 teach structurally similar pyrimidinyl compounds. Claim 1 has been herein amended to recite that "compounds of formula II exclude

JUN 03 2009

30/30

Case 21230YP

Page 29

compounds wherein HET-1 is  and HET-2 is  at the same time.

Applicants respectfully note that the compounds disclosed by '466 and '248 are structurally distinct from compounds of instantly claimed invention.

VII. Objections

The Examiner objected to Claims 3-6, 8-11, 13, 15-18, 20-23, 25-28, 30-31, 34-36, and 39-40 as being dependent on rejected independent Claim 1 but otherwise allowable if rewritten in independent form.

Based on the foregoing remarks, Applicants believe Claim 1 is in condition for allowance and therefore request reconsideration of Claims 8, 9, 11, 13, 15-18, 20, 22, 25-28, 30, 31, 34-36 and 39-40 as written.

VIII. Conclusion

In light of the amendments and remarks herein Applicants believe the claims are in condition for allowance. The Examiner is respectfully requested withdraw the objections and 35 USC section 102(b) rejections and to contact the undersigned at the number below if this would expedite the allowance.

Respectfully submitted,

By: 

Sylvia A. Ayler

Reg. No. 36,436

Attorney for Applicant(s)

MERCK & CO., INC.

P.O. Box 2000

Rahway, New Jersey 07065-0907

(732) 594-4909

Date: June 3, 2009